

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

**FILED**  
OCT - 6 2005  
CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY \_\_\_\_\_  
DEPUTY CLERK

STATE OF TEXAS,

Plaintiff,

v.

RYAN SAMUEL PITYLAK, individually and  
d/b/a LEADPLEX, INC., LEADPLEX, LLC and  
PAYPERACTION, LLC;

MARK TROTTER, individually and d/b/a  
LEADPLEX, INC., LEADPLEX, LLC and  
PAYPERACTION, LLC;

LEADPLEX, INC.; LEADPLEX, LLC;

PAYPERACTION, LLC and d/b/a 227 Assumed  
Names listed in Paragraph 8; and

EASTMARK TECHNOLOGY LIMITED d/b/a  
LEADPLEX, INC., LEADPLEX, LLC and  
PAYPERACTION, LLC;

Defendants.

Civil Action No. A-05CA-017LY

**NOTICE OF UNOPPOSED MOTION AND MOTION TO WITHDRAW  
AS COUNSEL OF RECORD**

TO: PLAINTIFF, STATE OF TEXAS AND ITS ATTORNEYS OF RECORD, AND  
DEFENDANTS MARK TROTTER AND RYAN PITYLAK:

NOTICE IS HEREBY GIVEN that Steven S. Richter of Goodman & Richter, LLP will  
and hereby does move this Court for an order withdrawing as counsel of record for Defendant  
Ryan Samuel Pitylak. This motion is brought on the grounds that Defendant has terminated the


services of Goodman & Richter, LLP and hired new counsel in Austin, Texas, it is within the discretion of this Court to grant leave to withdraw as counsel of record upon a showing of good cause, and an attorney may not withdraw as counsel except with leave of court (FRCP 83).

This motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities filed herewith, the declaration of Steven S. Richter, the pleadings and papers on file herein, and upon such other matters as may be presented to the Court at the time of the hearing.

DATED: October 3, 2005

Respectfully submitted,

GOODMAN & RICHTER, LLP

By: 

STEVEN S. RICHTER  
California State Bar No. 171205  
GOODMAN & RICHTER, LLP  
501 West Broadway, Suite 1720  
San Diego, California 92101  
Telephone: (619) 233-3535  
Facsimile: (619) 233-3599

Counsel for Defendants Mark Trotter and  
Ryan Samuel Pitylak

**CERTIFICATE OF SERVICE**

I hereby certify that on this 4<sup>th</sup> day of October, 2005, a true and correct copy of the foregoing Notice of Motion and Motion to Withdraw as Counsel of Record was served via First

Class Mail to:


C. Brad Schuelke  
D. Esther Chavez  
Assistant Attorneys General  
Consumer Protection & Public Health  
Division  
Post Office Box 12548  
Austin, Texas 79711

Ryan Pitylak  
1005 Possum Trot St  
Austin, TX 78703

Mark Trotter  
1302 Ravean  
Encinitas, CA 92024

Paul Lawrence  
Lawrence Arenella Satija LLP  
3600 Bee Caves Rd. Suite 200  
Austin, TX 78746  
(512) 330-0073

Robert A. Radcliffe, Esq.  
Karr, Tuttle, Campbell  
1201 Third Avenue, Suite 2900  
Seattle, WA 98101

  
\_\_\_\_\_  
Kesha Newcomb-Pugh



their behalf by Steven S. Richter. In August 2005, Defendants began an extensive, coordinated document production to opposing counsel in the instant case and two other matters; thus far 35 banker's boxes of documents have been produced.

On September 19, 2005, Defendant Ryan Pitylak advised orally and in writing that he wished to substitute local counsel, Paul Lawrence, Lawrence Arenella Satija LLP, 3600 Bee Caves Rd. Suite 200, Austin, TX 78746 to assume his representation in this case. Goodman & Richter, LLP is arranging for the transfer of the client documents to new counsel thereby avoiding any significant delay in discovery and prosecution of the action.

**I.**

**THE ABILITY OF AN ATTORNEY TO WITHDRAW AS COUNSEL OF RECORD  
LIES WITHIN THE DISCRETION OF THE COURT,  
AND IS AUTHORIZED UPON ORDER OF THE COURT**

Local Rule CV-7 provides that no legal authorities are required to be cited for a motion to withdraw as counsel. Generally, the district courts require a showing of good cause in order for counsel to be excused, together with formal notification to the client and opposing counsel of such intent. Such motions meeting these requirements are typically granted barring any delays in prosecution of the case resulting therefrom. In the instant action, Defendant terminated the services of Goodman & Richter, LLP and hired new counsel in Austin, Texas. In addition, the parties have requested an extension of time to submit a proposed Scheduling Order to the Court and have submitted a proposed Scheduling Order to the Court which sets the discovery deadline for May 16, 2006. Therefore, there are no impending deadlines which will result in prejudice to any party by this change of counsel for Defendant. Accordingly, good cause exists for the withdrawal of counsel by Steven S. Richter for Goodman & Richter, LLP, and it is hereby requested that the Court exercise its discretion to issue an order allowing same.

Furthermore, all counsel in this matter have been informed of the withdrawal of Steven S. Richter and Goodman & Richter, LLP and have not expressed a desire to oppose the same.

**II**

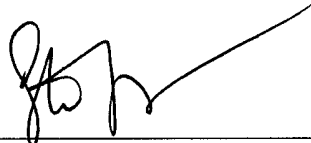
**CONCLUSION**

For the foregoing reasons, and good cause appearing therefor, Steven S. Richter of Goodman & Richter, LLP hereby requests the court grant this motion to withdrawal as counsel of record for Defendant Ryan Samuel Pitylak.

DATED: October 3, 2005

Respectfully submitted,

GOODMAN & RICHTER, LLP

By: \_\_\_\_\_

STEVEN S. RICHTER  
California State Bar No. 171205  
GOODMAN & RICHTER, LLP  
501 West Broadway, Suite 1720  
San Diego, California 92101  
Telephone: (619) 233-3535  
Facsimile: (619) 233-3599

Counsel for Defendants Mark Trotter and  
Ryan Samuel Pitylak

**CERTIFICATE OF SERVICE**

I hereby certify that on this 4<sup>th</sup> day of October, 2005, a true and correct copy of the foregoing Memorandum of Points and Authorities in Support of Motion to Withdraw as Counsel of Record was served via First Class Mail to:

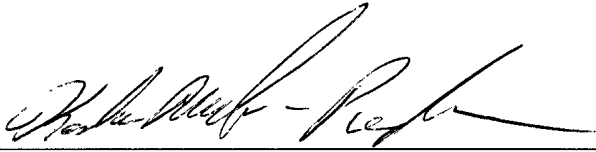
C. Brad Schuelke  
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Seattle, WA 98101

  
\_\_\_\_\_  
Kesha Newcomb-Pugh





2. GOODMAN & RICHTER, LLP was retained by Defendants Ryan Samuel Pitylak and Mark Trotter in the above-caption matter. I thereafter filed appearances on their behalf.

3. In August 2005, I began an extensive, coordinated document production to opposing counsel in this case and two other matters. To date, Goodman & Richter, LLP has produced 35 banker's boxes of client documents to opposing counsel.

4. On September 19, 2005 and thereafter, Defendant Ryan Pitylak advised orally and in writing that he wished to substitute local counsel, Paul Lawrence, Lawrence Arenella Satija LLP, 3600 Bee Caves Rd. Suite 200, Austin, TX 78746 . Goodman & Richter, LLP has arranged for the transfer of the client documents to new counsel to avoid any significant delay in discovery and prosecution of the action.

5. The parties have submitted the requisite Scheduling Order to the Court which sets the discovery deadline for May 16, 2006 or in the alternative requested an extension to file the Scheduling Order until such time as new counsel has made his appearance. There are no impending deadlines which will result in prejudice to any party by this change of counsel for Defendants.

6. My office has notified all counsel of this withdrawal and the substitution of new counsel. No counsel have expressed any desire to oppose this motion.

DATED: October 3, 2005

  
STEVEN S. RICHTER  
California State Bar No. 171205  
GOODMAN & RICHTER, LLP  
501 West Broadway, Suite 1720  
San Diego, California 92101  
Telephone: (619) 233-3535  
Facsimile: (619) 233-3599

Counsel for Defendants Mark Trotter and  
Ryan Samuel Pitylak

**CERTIFICATE OF SERVICE**

I hereby certify that on this 4<sup>th</sup> day of October, 2005, a true and correct copy of the foregoing Declaration of Steven S. Richter in Support of Motion to Withdraw as Counsel of Record was served via First Class Mail to:

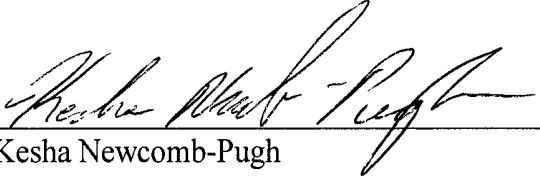
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